

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CRIMINAL CASE NO. 3:93cr89

UNITED STATES OF AMERICA,

vs.

PHILLIP HENRIQUES.

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ORDER

THIS MATTER is before the Court on the Supplement to the Presentence Report Pursuant to Crack Cocaine Guideline Amendment [Doc. 129] filed on January 14, 2009 by the United States Probation Office.

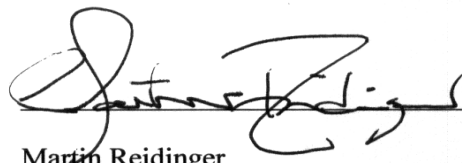
It appears that at some point the Defendant was potentially identified as a defendant to whom the crack cocaine amendment, Amendment 706 to the Sentencing Guidelines, might apply. Defendant has filed no motion for application of Amendment 706, either through counsel or pro se.

After review of the Supplement to the Presentence Report and the Court file, the Court determines that inasmuch as the Defendant's conviction resulted from crimes involving powder cocaine, not cocaine base, he is not entitled to any relief pursuant to Amendment 706.

IT IS, THEREFORE, ORDERED *sua sponte* that the Defendant is entitled to no relief pursuant to Amendment 706 to the Sentencing Guidelines.

IT IS SO ORDERED.

Signed: February 10, 2009


Martin Reidinger
United States District Judge

